

281—56.25(259) Hearing before impartial hearing officer. Regardless of whether the appellant has used supervisor review or mediation or both, if the appellant requests a hearing before an IHO, the following provisions apply:

56.25(1) The division shall appoint the IHO from the pool of impartial hearing officers with whom the division has contracts. The IHO shall be assigned on a random basis or by agreement between the administrator of the division and the appellant.

56.25(2) The hearing shall be held within 20 days of the receipt of the appointment of the IHO. A written decision shall be rendered and given to the parties by the IHO within 30 days after completion of the hearing. Either or both of these time frames may be extended by mutual agreement of the parties or by a showing of good cause by one party.

56.25(3) The appellant shall be informed that the filing of an appeal confers consent for the release of the case file information to the IHO. The IHO shall have access to the case file or a copy thereof at any time following acceptance of the appointment to hear the case.

56.25(4) Within five working days after appointment, the IHO shall notify both parties in writing of the following:

- a. The role of the IHO;
- b. The IHO's understanding of the reasons for the appeal and the requested resolution;
- c. The date, time, and place for the hearing, which shall be accessible and located as advantageously as possible for both parties but more so for the appellant;
- d. The availability of the case file for review and copying in a vocational rehabilitation office prior to the hearing and how to arrange for the same (see also rule 281—56.22(259));
- e. That the hearing shall be closed to the public unless the appellant specifically requests an open hearing;
- f. That the appellant may present evidence and information personally, may call witnesses, may be represented by counsel or other appropriate advocate at the appellant's expense, and may examine all witnesses and other relevant sources of information and evidence;
- g. The availability to the appellant of the Iowa client assistance program (ICAP) for possible assistance;
- h. Information about the amount of time it will take to complete the hearing process;
- i. The possibility of reimbursement of necessary travel and related expenses; and
- j. The availability of interpreter and reader services for appellants not familiar with the English language and those who are deaf or hard of hearing and the availability of transportation or attendant services for those appellants requiring such assistance.

56.25(5) Existing division services provided to an appellant shall not be suspended, reduced, or terminated pending decision of the IHO, unless so requested by the appellant.

56.25(6) The IHO shall provide a full written decision, including the findings of fact and grounds for the decision. The appellant or the division may request administrative review, and the IHO decision is submitted to the administrator of the division. Both parties may provide additional evidence not heard at the hearing for consideration for the administrative review. If no additional evidence is presented, the IHO decision stands. The division reserves the right to submit the IHO decision for administrative review whenever the IHO decision places the division in the position of violating federal law. Unless either party chooses to seek judicial review pursuant to Iowa Code chapter 17A, the decision of the IHO is final. If judicial review is sought after administrative review, the IHO's decision shall be implemented pending outcome of the judicial review.

[ARC 2844C, IAB 12/7/16, effective 1/11/17; ARC 5870C, IAB 8/25/21, effective 9/29/21]